

United States District Court

EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

JOSEPH MICHAEL PHILLIPS,

Plaintiff,

v.

COLLIN COUNTY COMMUNITY
COLLEGE DISTRICT, *et al.*,

Defendants.

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Civil Action No. 4:22-CV-184
Judge Mazzant

VERDICT FORM

We, the Jury, find as follows:

FIRST AMENDMENT RETALIATION

Defendant H. Neil Matkin

Question No. 1

Do you find that Plaintiff Joseph Michael Phillips has proven by a preponderance of the evidence that his speech on a matter of public concern motivated Defendant H. Neil Matkin's decision to not renew his contract?

Answer "Yes" or "No" as to each of the following incidents of Plaintiff Joseph Michael Phillips's speech:

- (1) Calling for the removal of Confederate monuments in a letter published in the *Dallas Morning News* in August 2017.
- (2) Giving an interview to the *Washington Post* in August 2019 about the Walmart mass shooting in El Paso, Texas.
- (3) Posting about COVID on social media in June 2020.
- (4) Posting about Collin College's COVID masking syllabus policy on social media in August 2021.

No

No

No

No

- (5) Discussing COVID masking in the classroom which led to at least one student complaint in August 2021.

Yes

If you answered "Yes" to any of the above, please proceed to Question No. 2. If you answered "No" to all the above, please proceed to Question No. 20.

Question No. 2

Do you find that Defendant H. Neil Matkin has proven by a preponderance of the evidence that he would have reached the same decision to not renew Plaintiff Joseph Michael Phillips's contract in the absence of the speech on a matter of public concern?

Yes Yes No _____

If you answered "Yes," please proceed to Question No. 20. If you answered "No," go to Question No. 3.

Question No. 3

Did Plaintiff Joseph Michael Phillips prove by a preponderance of the evidence that Defendant H. Neil Matkin is not entitled to qualified immunity?

Yes _____ No _____

After answering this question, go to Question No. 4.

Defendant Mary Barnes-Tilley

Question No. 4

Do you find that Plaintiff Joseph Michael Phillips has proven by preponderance of the evidence that his speech on a matter of public concern motivated Defendant Mary Barnes-Tilley's decision to not recommend him for a new contract?

Answer "Yes" or "No" as to each of the following incidents of Plaintiff Joseph Michael Phillips's speech:

- (1) Calling for the removal of Confederate monuments in a letter published in the *Dallas Morning News* in August 2017. _____
- (2) Giving an interview to the *Washington Post* in August 2019 about the Walmart mass shooting in El Paso, Texas. _____
- (3) Posting about COVID on social media in June 2020. _____

(4) Posting about Collin College's COVID masking syllabus policy on social media in August 2021. _____

(5) Discussing COVID masking in the classroom which led to at least one student complaint in August 2021. _____

If you answered "Yes" to any of the above, please proceed to Question No. 5. If you answered "No" to all the above, go to Question No. 8.

Question No. 5

Do you find that Defendant Mary Barnes-Tilley has proven by a preponderance of the evidence that she would have reached the same decision to not recommend Plaintiff Joseph Michael Phillips for a new contract in the absence of the speech on a matter of public concern?

Yes _____ No _____

If you answered "Yes," please proceed to Question No. 8. If you answered "No," go to Question No. 6.

Question No. 6

Did Defendant Mary Barnes-Tilley's retaliatory animus proximately cause the nonrenewal of Plaintiff Joseph Michael Phillips's contract?

Yes _____ No _____

If you answered "Yes," please proceed to Question No. 7. If you answered "No," go to Question No. 8.

Question No. 7

Did Plaintiff Joseph Michael Phillips prove by a preponderance of the evidence that Defendant Mary Barnes-Tilley is not entitled to qualified immunity?

Yes _____ No _____

After answering this question, go to Question No. 8.

Defendant Abe Johnson

Question No. 8

Do you find that Plaintiff Joseph Michael Phillips has proven by preponderance of the evidence that his speech on a matter of public concern motivated Defendant Abe Johnson's decision to not recommend him for a new contract?

Answer "Yes" or "No" as to each of the following incidents of Plaintiff Joseph Michael Phillips's speech:

- (1) Calling for the removal of Confederate monuments in a letter published in the *Dallas Morning News* in August 2017. _____
- (2) Giving an interview to the *Washington Post* in August 2019 about the Walmart mass shooting in El Paso, Texas. _____
- (3) Posting about COVID on social media in June 2020. _____
- (4) Posting about Collin College's COVID masking syllabus policy on social media in August 2021. _____
- (5) Discussing COVID masking in the classroom which led to at least one student complaint in August 2021. _____

If you answered "Yes" to any of the above, please proceed to Question No. 9. If you answered "No" to all the above, go to Question No. 12.

Question No. 9

Do you find that Defendant Abe Johnson has proven by a preponderance of the evidence that he would have reached the same decision to not recommend Plaintiff Joseph Michael Phillips for a new contract in the absence of the speech on a matter of public concern?

Yes _____ No _____

If you answered "Yes," please proceed to Question No. 12. If you answered "No," go to Question No. 10.

Question No. 10

Did Defendant Abe Johnson's retaliatory animus proximately cause the nonrenewal of Plaintiff Joseph Michael Phillips's contract?

Yes _____ No _____

If you answered "Yes," please proceed to Question No. 11. If you answered "No," go to Question No. 12.

Question No. 11

Did Plaintiff Joseph Michael Phillips prove by a preponderance of the evidence that Defendant Johnson is not entitled to qualified immunity?

Yes _____ No _____

After answering this question, go to Question No. 12.

Defendant Kristen Streater

Question No. 12

Do you find that Plaintiff Joseph Michael Phillips has proven by preponderance of the evidence that his speech on a matter of public concern motivated Defendant Kristen Streater's decision to not recommend him for a new contract?

Answer "Yes" or "No" as to each of the following incidents of Plaintiff Joseph Michael Phillips's speech:

- (1) Calling for the removal of Confederate monuments in a letter published in the *Dallas Morning News* in August 2017. _____
- (2) Giving an interview to the *Washington Post* in August 2019 about the Walmart mass shooting in El Paso, Texas. _____
- (3) Posting about COVID on social media in June 2020. _____
- (4) Posting about Collin College's COVID masking syllabus policy on social media in August 2021. _____
- (5) Discussing COVID masking in the classroom which led to at least one student complaint in August 2021. _____

If you answered "Yes" to any of the above, please proceed to Question No. 13. If you answered "No" to all the above, go to Question No. 16.

Question No. 13

Do you find that Defendant Kristen Streater has proven by a preponderance of the evidence that she would have reached the same decision to not recommend Plaintiff Joseph Michael Phillips for a new contract in the absence of the speech on a matter of public concern?

Yes _____ No _____

If you answered "Yes," please proceed to Question No. 16. If you answered "No," go to Question No. 14.

Question No. 14

Did Defendant Kristen Streater's retaliatory animus proximately cause the nonrenewal of Plaintiff Joseph Michael Phillips's contract?

Yes _____ No _____

If you answered "Yes," please proceed to Question No. 15. If you answered "No," go to Question No. 16.

Question No. 15

Did Plaintiff Joseph Michael Phillips prove by a preponderance of the evidence that Defendant Kristen Streater is not entitled to qualified immunity?

Yes _____ No _____

After answering this question, go to Question No. 16.

Defendant Chaelle O'Quin

Question No. 16

Do you find that Plaintiff Joseph Michael Phillips has proven by preponderance of the evidence that his speech on a matter of public concern motivated Defendant Chaelle O'Quin's decision to not recommend him for a contract extension?

Answer "Yes" or "No" as to each of the following incidents of Plaintiff Joseph Michael Phillips's speech:

- (1) Calling for the removal of Confederate monuments in a letter published in the *Dallas Morning News* in August _____ 2017.

- (2) Giving an interview to the *Washington Post* in August 2019 about the Walmart mass shooting in El Paso, Texas. _____
- (3) Posting about COVID on social media in June 2020. _____
- (4) Posting about Collin College's COVID masking syllabus policy on social media in August 2021. _____
- (5) Discussing COVID masking in the classroom which led to at least one student complaint in August 2021. _____

If you answered "Yes" to any of the above, please proceed to Question No. 17. If you answered "No" to all the above, go to Question No. 20.

Question No. 17

Do you find that Defendant Chaelle O'Quin has proven by a preponderance of the evidence that she would have reached the same decision to not recommend Plaintiff Joseph Michael Phillips for a contract extension in the absence of the speech on a matter of public concern?

Yes _____ No _____

If you answered "Yes," please proceed to Question No. 20. If you answered "No," go to Question No. 18.

Question No. 18

Did Defendant Chaelle O'Quin's retaliatory animus proximately cause the nonrenewal of Plaintiff Joseph Michael Phillips's contract?

Yes _____ No _____

If you answered "Yes," please proceed to Question No. 19. If you answered "No," go to Question No. 20.

Question No. 19

Did Plaintiff Joseph Michael Phillips prove by a preponderance of the evidence that Defendant Chaelle O'Quin is not entitled to qualified immunity?

Yes _____ No _____

After answering this question, go to Question No. 20.

GOVERNMENTAL ENTITY LIABILITY

Policy — Code of Professional Ethics

Question No. 20

Did Plaintiff Joseph Michael Phillips prove by a preponderance of the evidence that the Code of Professional Ethics was the moving force leading to the decision to not renew Plaintiff Joseph Michael Phillips's contract in retaliation for speaking on matters of public concern?

Yes _____ No No

After answering this question, please go to Question No. 21.

Policy — Employee Expression Policy

Question No. 21

Did Plaintiff Joseph Michael Phillips prove by a preponderance of the evidence that the Employee Expression Policy was the moving force leading to the decision to not renew Plaintiff Joseph Michael Phillips's contract in retaliation for speaking on matters of public concern?

Yes _____ No No

After answering this question, please go to Question No. 22.

Custom

Question No. 22

Did Plaintiff Joseph Michael Phillips prove by a preponderance of the evidence that Collin Community College maintained a custom of punishing faculty members for speaking on matters of public concern?

Yes _____ No No

If you answered "Yes" please proceed to Question No. 23. If you answered "No," go to the Compensatory Damages Section below.

Question No. 23

Did Plaintiff Joseph Michael Phillips prove by a preponderance of the evidence that Collin Community College's Board of Trustees knew or should have known about the custom of punishing faculty members for speaking on matters of public concern?

Yes _____ No _____

If you answered "Yes" please proceed to Question No. 24. If you answered "No," go to the Compensatory Damages Section below.

Question No. 24

Did Plaintiff Joseph Michael Phillips prove by a preponderance of the evidence that the custom of punishing faculty members for speaking on matters of public concern was the moving force leading to the decision to not renew Plaintiff Joseph Michael Phillips's contract in retaliation for speaking on matters of public concern?

Yes _____ No _____

After answering this question, go to the Compensatory Damages Section below.

COMPENSATORY DAMAGES

Answer Question No. 25 only if you answered “Yes” to Question No. 3, Question No. 7, Question No. 11, Question No. 15, Question No. 19, Question No. 20, Question No. 21, or Question No. 24. If you answered “No” to all those questions, proceed to the signature line.

Question No. 25

What sum of money, if any, if paid now in cash, would fairly and reasonably compensate Plaintiff Joseph Michael Phillips for the damages, if any, you have found the Defendants' wrongful conduct, if any, caused Plaintiff Joseph Michael Phillips?

Answer in dollars and cents for the following items and none other:

a. Past wages and benefits (back pay) from May 2022 to November 6, 2023 (the date of trial)

\$ _____

b. Net loss of wages and benefits in the future (front pay)

\$ _____

c. Past emotional pain and mental anguish up to the date of trial

\$ _____

d. Future emotional pain and mental anguish

\$ _____

If you answered an amount more than \$0.00 to Question No. 25 a. past wages and benefits (back pay), please answer Question No. 26. Otherwise, go to the Punitive Damages Section below.

Question No. 26

Do you find from a preponderance of the evidence that Plaintiff Joseph Michael Phillips failed to mitigate his net loss of wages and benefits (back pay)?

Yes _____ No _____

If you answered “Yes,” please answer Question No. 27. If you answered “No,” go to the Punitive Damages Section below.

Question No. 27

As of what date did Plaintiff Joseph Michael Phillips fail to mitigate his net loss of wages and benefits (back pay)?

Month/Day/Year: _____/_____/_____

After answering this question, go to the Punitive Damages Section below.

PUNITIVE DAMAGES

Answer Question No. 28 only if you have answered "Yes" for Question No. 3. If you answered "No" for Question No. 3, please proceed to the signature line.

Question No. 28

Do you find by a preponderance of the evidence that the damages caused by Defendant H. Neil Matkin against Plaintiff Joseph Michael Phillips resulted from malice or reckless indifference?

Yes _____ No _____

If you answered "Yes" to Question No. 28, then answer Question No. 29. Otherwise, proceed to the signature line.

Question No. 29

What sum of money, if any, if paid now in cash, should be assessed against Defendant H. Neil Matkin and be awarded to Plaintiff Joseph Michael Phillips as punitive damages, if any, for the conduct found in response to Question No. 28?

Answer in dollars and cents, if any:

\$ _____

After answering this question, proceed to the signature line.

Date: 11/13/2023

Presiding Juror